

The House Committee on Judiciary Non-civil offers the following substitute to HB 997:

A BILL TO BE ENTITLED  
AN ACT

To amend Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and agencies, so as to provide for written policies for enhancing witness identification and related protocol; to provide for a short title; to provide for definitions; to provide for training in enhancing witness identification accuracy; to amend Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to arrest of persons, so as to provide for implementation of procedures for enhancing witness identification accuracy; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

This Act shall be known and may be cited as the "Witness Identification Accuracy Enhancement Act."

**SECTION 2.**

Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and agencies, is amended in Chapter 1, relating to general provisions for law enforcement officers and agencies, by adding new Code sections to read as follows:

"35-1-15.

(a) As used in this Code section, the term:

(1) 'Filler' means a person or photograph of a person who is not a suspect in the crime under investigation and is made part of a physical lineup or a photographic lineup and presented to a witness.

(2) 'In-service' means continuing education for peace officers which is in addition to the basic training course set forth in Code Section 35-8-9.

(3) 'Peace officer' shall have the same meaning as set forth in Code Section 35-8-2.

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(4) 'Photographic lineup' means a selected group of photographs of persons presented to a witness containing a single suspect and several fillers for the purpose of determining whether the witness is able to identify the suspect as the perpetrator of the crime.

(5) 'Physical lineup' means a selected group of persons presented to a witness containing a suspect and several fillers for the purpose of determining whether the witness is able to identify the suspect as the perpetrator of the crime.

(6) 'Showup' means a witness views a single suspect for purposes of identification of the suspect as the perpetrator of the crime.

(7) 'Suspect' means a person under investigation for participation in a crime.

(b) Prior to July 1, 2008, the Georgia Peace Officer Standards and Training Council shall establish guidelines and procedures for conducting showups, photographic lineups, and physical lineups and the Georgia Public Safety Training Center in conjunction with the Prosecuting Attorneys' Council of the State of Georgia shall develop a comprehensive in-service training program for providing instruction on such procedures. Such guidelines, procedures, and training shall be for use by peace officers monitored by the Georgia Peace Officer Standards and Training Council and monitored and funded by the Georgia Public Safety Training Center in all courses for which it has responsibility and oversight.

35-1-16.

On and after January 1, 2009, each law enforcement unit, as such term is defined in Code Section 35-8-2, that conducts showups, photographic lineups, or physical lineups, as such terms are defined in Code Section 35-1-15, shall adopt written policies that set forth the manner in which such operations shall be conducted and shall contain minimum specifications for each such procedure. Each law enforcement unit may create its own such policies or adopt an existing model. Law enforcement units which do not comply with the requirements of this Code section shall be subject to the withholding of any state funding or state administered federal funding."

### **SECTION 3.**

Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to arrest of persons, is amended by adding a new article to read as follows:

### **"ARTICLE 5**

17-4-70.

On and after July 1, 2011, all photographic lineups and physical lineups shall be conducted by peace officers, as such terms are defined in Code Section 35-1-15, who have

1 successfully completed in-service training on conducting photographic lineups and physical  
2 lineups as set forth in Code Section 35-1-15. This Code section shall not preclude the  
3 admissibility of pretrial witness identification evidence."

4 **SECTION 4.**

5 This Act shall become effective upon its approval by the Governor or upon its becoming law  
6 without such approval.

7 **SECTION 5.**

8 All laws and parts of laws in conflict with this Act are repealed.